

TORT REFORM AMENDMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Leonard M. Blackham

This act enacts a provision providing for the affirmative defense of assumption of risk in tort actions.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

78-11-28, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78-11-28** is enacted to read:

78-11-28. Assumption of risk.

(1) In any tort action, a defendant shall not be liable if the injured person assumed the risk of injury or harm to property. Assumption of the risk shall mean that the injured:

(a) knew of and appreciated the risk; and

(b) voluntarily exposed himself or herself to the danger that proximately caused the injury or damage.

(2) The elements of assumption of the risk may be inferred, as a matter of either fact or law, from circumstantial evidence that the injured person must have known and appreciated the risk and voluntarily encountered it.

Legislative Review Note
as of 1-7-03 4:03 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel



State Impact

Provisions of this bill may have a fiscal impact on the State. Depending on the case, the situation and the circumstances, the impact could be positive or negative and it can be significant.

Individual and Business Impact

The provisions of this law could either increase the award or decrease the award to an individual depending on the specifics of the case.

Office of the Legislative Fiscal Analyst